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/P.S./ 04/12/2010

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/722,038	Confirmation No.:	6494
Applicant	:	Jeff Peck		
Filed	:	November 24, 2003		
TC/A.U.	:	2626		
Examiner	:	Shah, Paras D.		
Docket No.	:	P16469/1020P16469		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF UNDER 37 C.F.R. § 41.50(a)(2)(ii)

SIR:

This reply Brief is being filed in response to the Examiner's Answer mailed on January 27, 2010. This Reply Brief is being filed in accordance with the requirements of 37 C.F.R. § 4150(a)(2)(ii) to maintain the appeal of the rejection of the above-identified patent application.

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Reply Brief Dated March 29, 2010

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STATUS OF THE CLAIMS

All of the claims pending the subject patent applications (claims 1-3, 5, 8-16, and 20) are under final rejection with this rejection being appealed. A complete copy of claims 1-3, 5, 8-16 and 20 is in the Claims Appendix to the Appellant's Brief filed on November 2, 2009.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The first ground of rejection is the rejection of claims 1, 5, 9, 13 and 14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2004/0073692 to Gentle et al. ("Gentle") in view of U.S. Patent No. 7,346,005 to Dowdal ("Dowdal").

The second ground of rejection is the rejection of claim 2, 3, 12, 15 and 16 under 35 U.S.C. § 103(a) over Gentle and Dowdal in view of U.S. Patent No. 6,865,162 to Clemm ("Clemm").

The third ground of rejection is the rejection of claims 8, 10, 11 and 20 under 35 U.S.C. § 103(a) over Gentle and Dowdal in view of U.S. Patent No. 5,920,834 to Sih et al. ("Sih").

ARGUMENT

In the Examiner's Answer on page 16, the Examiner argues that the claim language of "receiving a plurality of packets with audio information" is "broad enough to read on each packet in the plurality being associated with audio information, where the audio information is different for each packet, but still represents audio information."

However, the limitation does not have anything to do with whether the audio information in the plurality of packets is different. The limitation merely states that multiple packets are received that have audio information. Furthermore, as discussed below, whether or not the packets have the same or different audio information is irrelevant. Even if there is different information in an individual packet within the plurality of packets, all of the claim limitations in claims 1 and 14 refer to audio information. Audio information is associated with the plurality of packets, not one individual packet. Nowhere does the claim limitation teach or even refer to the audio information inside a particular packet. Furthermore, the subsequent limitations refer to the audio information, not the packets. Accordingly, "said" audio information refers to the audio information received with the plurality of packets.

The Examiner assumes that there is different information inside each packet in order to read the claim to have some of the information be determined to be voice information and other audio information to be buffered. The Examiner states

[s]ince each received packet contains audio information, the packet for which voice activity is being determined may be different from that which is buffered since only audio information is being claimed. The buffering limitation of the claim states said audio information and does not exclude or restrict the buffering of a specific packet of audio information of by the same information for which the VAD will process.

However, the Appellant cannot concur with the Examiner's interpretation of the claim limitations. The limitations of claims 1 and 14 refer to the audio information, not the packets. The "audio information" that is referred to in the claim limitations is the audio information with the received plurality of packets. It is that audio information, with the plurality of packets, which is buffered during the determination. Nowhere does it teach a packet from the plurality of packets being buffered and a different packet from the plurality of packets being determined as the Examiner interprets this claim.

Furthermore, as discussed in the Appeal Brief, the claim limitations state “receiving a plurality of packets with audio information; determining by a voice activity detector whether said audio information represents voice information; [and] buffering said audio information in a jitter buffer during said determination.” As the limitation states “said audio information”, the determining by a voice activity detector must be determining whether the audio information which was received in the plurality of packets represents voice information. Additionally, that same audio information must be buffered in a jitter buffer. Furthermore, since the audio information is buffered in a jitter buffer during said determining, the same audio information that was received by the packets must be buffered by the jitter buffer during the determination of whether the same audio information that was received by the packets is determined to be voice information. Accordingly, Gentle and Dowdal do not read on claims 1 and 14.

With respect to claim 9, in the Examiner's Answer on page 18, the Examiner argues that the “limitation of ‘frames of audio information’ is broad enough to conclude that each frame ... can contain different audio information.” Furthermore, the Examiner states that “[s]ince each frame contains audio information the frame for which voice activity is being determined may be different from that which is buffered.”

However, the Appellant disagrees with the Examiner's interpretation of the wherein clause. The wherein clause merely further explains the voice activity detector by stating that it receives frames of audio information, measures at least one characteristic of said frames and adjusts a delay interval. The wherein clause refers to multiple frames as the clause states that the voice activity detector receives frames of audio information and it measures said frames. In contrast, the other limitations in claim 9 state “a receiver connected to said antenna to receive a frame of information; the voice activity detector to detect voice information in said frame; and a jitter buffer to buffer said information during said detection”. The voice activity detector detects voice information in said frame. As the claim limitation states “said frame” and not “said frames”, the claim limitations should be interpreted as a singular frame. More specifically, said frame refers to the frame of information received. As the claim states “a jitter buffer to buffer said information during said detection”, the information being referred to by “said information” is the same frame of information that received and detected by the voice activity detector.

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Accordingly, the same information is buffered during the detection. Accordingly, Gentle and Dowdal do not read on claim 9.

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Conclusion

For the reasons delineated herein and in the Appellant's Brief filed on November 2, 2009, the claims pending in the subject patent application are not obvious over the teachings of Gentle, Dowdal, Sih and Clemm. It is, accordingly, appropriate for the Examiner's Rejections to be reversed.

Respectfully submitted,

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Under 37 CFR 1.34(a)

Dated: March 29, 2010

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